

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

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PLAINTIFF

*

VS. Case No: DR-____-_____

*

DEFENDANT

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PRE-TRIAL ORDER

The following Pre-Trial Order applies to the above referenced case, unless and until subsequent Orders of this Court.

**READ THIS ORDER CAREFULLY AS THE COURT
EXPECTS YOU TO ABIDE BY ITS TERMS**

Attorneys of record shall inform their clients of the contents of this Pre-Trial Order.

It is hereby ORDERED, ADJUDGED AND DECREED as follows:

1. Case Management Conference ("CMC"). **This case is hereby set for a Virtual Case Management Conference on _____ at _____. The Zoom Meeting information is as follows:**

**Join Zoom Meeting: <http://join.alacourt.com>
Meeting ID:
Password:**

Lawyers of record and parties representing themselves shall appear for said hearing by accessing the Zoom conference with the information set out above. Failure to appear for the Virtual Hearing may result in sanctions, default, and/or dismissal of this case.

2. In lieu of appearing for the CMC, lawyers or pro se parties may file a Status Report with the Court at least 24 hours prior to the CMC that contains all the information set out in paragraph 4 below. If a Status Report is filed, the party filing the Status Report, nor their attorney need appear for the CMC. If a party or lawyer is unable to attend the CMC when scheduled, they should file a Status Report setting out the information in paragraph 4 below. The Court will not reset the CMC, but a party can avoid the necessity of appearing for same by filing the Status Report. The CMC is merely a status docket. The Court will not take evidence or hear testimony regarding the underlying case. Evidence will be received in open Court at the trial.

3. When you login to the Zoom conference you will be placed in the Virtual Waiting Room where you will wait until your case is called. When your case is called, the Court will grant you access into the Virtual Hearing. You will need video and audio capabilities (any smart phone with the Zoom app installed will work). If a party representing themselves is unable to attend the CMC virtually via Zoom, he or she shall file a written notice with the Court immediately, and no later than 14 days before the date and time noted above so the Court can determine how to proceed.
4. Counsel or unrepresented parties shall be prepared to present the following orally to the Court at the Case Management Conference:
 - a. Whether a good faith effort has been made to settle the case;
 - b. Whether discovery is completed, and an estimate of time necessary to complete discovery, if it is not;
 - c. Whether the case is ready for trial;
 - d. Estimated time required for the final hearing;
 - e. Identification of all unresolved issues to be tried;
 - f. Whether the case requires an immediate hearing and the nature of any urgency that causes it to require same; and
 - g. Email addresses for all unrepresented parties (if known or ascertainable).
5. If a case is ready to be set for trial before the CMC, a party may file a Motion requesting a trial date, and in such Motion shall affirmatively state that discovery is substantially complete (or that the party is prepared to go to trial despite not having received discovery) AND must include a time estimate for the length of trial so the case may be set on an appropriate docket.
6. Payment of recurring expenses. It is the intent of the Court for the parties to maintain the status quo as it existed during the marriage and prior to the decision to file for divorce to the extent possible. Therefore, it is **Ordered** that the parties continue to pay all debts and other regular expenses, including but not limited to rent, mortgage payments, utilities, cell phone, car loans, gas, food, insurance, children's school and/or child care expenses and other necessary living expenses in the same manner and from the same source as they were customarily paid in the months leading up to the filing of the divorce. If the Court is called on to determine what is customary, the Court will review the average expenditures in the six (6) months leading up to the filing of the Divorce and any other information that may be relevant to that determination.
7. Preservation of assets and access. Without prior Court authorization or the written agreement of both parties, the parties **shall not**:
 - a. sell, assign, transfer, conceal, liquidate, encumber, dissipate, destroy, damage or otherwise dispose of assets presently in their control, nor shall they direct or permit the same to occur;

- b. make withdrawals from, encumber, or liquidate any account with a financial institution including but not limited to checking, savings, money market, CDs, or the like (except for the ordinary expenses necessary to maintain the status quo as Ordered in paragraph 6 above or to pay lawyer's fees or litigation expenses herein);
- c. withdraw from, borrow against, change the beneficiary designation or otherwise reduce any retirement accounts, stock purchase plans, or the like;
- d. change any insurance policy (medical, life, property, etc) including making any changes to coverage, amount or term, ownership, beneficiary designation, or allows such policies to lapse;
- e. terminate, allow to lapse, or otherwise adversely affect any utility service, including water, gas, electric, cable, internet, telephone or other services, or withdraw deposits therefrom;
- f. terminate or limit the other spouse's access to credit cards to which they have customarily had access prior to the divorce being filed;
- g. destroy or alter any records of any kind, including electronic data files; or
- h. limit the other party's access to the home (unless the parties have already agreed to separate prior to the divorce being filed), safe deposit box, financial records or storage unit(s) to which that party normally had access during the marriage.

However, this Order shall not prohibit the use of earned income to pay reasonable and necessary debts and living expenses of the parties as required under paragraph six (6) above *or* when necessary in the normal and reasonable course of operating a business.

- 8. Use of automobiles. Regardless of how a vehicle may be titled, automobiles shall continue in the possession of the party using it prior to the filing of the divorce.
- 9. Injunction against harassment. Each party is hereby restrained from harassing, intimidating, assaulting, abusing, or threatening the other during the pendency of this case, either directly or indirectly, in person or by means of telephone, text, mail, email, chat, messenger, social media or through third parties.
- 10. Parties' contact address information. Each party **shall** keep a current mailing address and e-mail address on file with the Domestic Relations Clerk's office throughout the pendency of this case. Such may be sent to: Tachonda Smith, Deputy Clerk, 205 Government Street, Room C 909, Mobile, Alabama 36644.
- 11. Negotiation of other terms. The parties are encouraged to mutually agree, if possible, to any other or different terms and conditions which will maintain the parties' financial condition pending the trial. However, any such agreements, if contrary to the terms of this Order, shall be in writing and signed by both parties.
- 12. Mediation. The Court strongly encourages mediation, if the parties are unable to settle their case without a mediator. The parties (either jointly or individually)

may file a motion requesting mediation which the Court will grant, according to Alabama Code Section 6-6-20. Any time the Court deems it appropriate to do so, the Court may order the case to mediation on its own motion.

13. The Judge is ethically prohibited from communicating with parties outside of Court. **Do not** attempt to contact the Judge or his staff in any way through mail, social media, e-mail and/or fax. Contact your attorney for any questions.
14. The Judge is ethically prohibited from serving as an advocate for either party. The Judge, the Judge's staff and the clerks are prohibited by law from giving you legal advice. If you choose to represent yourself, you must comply with the *Alabama Rules of Civil Procedure* and the *Alabama Rules of Evidence*. Pro se parties are responsible for informing themselves of the contents and responsibilities under this Order.
15. **Trial Exhibits.** At least 3 business days prior to the trial (or any pendente lite hearing), all parties shall pre-mark their Court exhibits and upload them to the case file on Alafile under the Exhibits tab. Those Exhibits will be considered proposed exhibits and are not considered evidence unless and until they are admitted by the Court into evidence during the hearing/trial. Except for impeachment evidence, a signed CS-41, or if the Court grants leave for exigent circumstances, any exhibits that are not uploaded to the Exhibits Module in Alafile 3 business days prior to the trial/hearing will not be allowed into evidence if the opposing party raises an objection to same. Pro se parties must register for Alafile to upload exhibits to comply with this provision.

**IF THE PARTIES HAVE A MINOR CHILD(REN) UNDER THE AGE OF 19,
THEN THE FOLLOWING ADDITIONAL ORDERS ALSO APPLY TO YOU:**

16. **Legal Custody.** During the pendency of the action the parties **shall** share joint legal custody of the child(ren). The parties shall consult each other regarding the academic, religious, civic, cultural, athletic, and other activities, and the medical and dental care of the minor child(ren). Pursuant to Code of Ala. § 30-3-154, each parent shall have access to all records and information pertaining to the children, including, but not limited to, medical, psychological, dental, scholastic, athletic, extra-curricular and law enforcement records.
17. **Physical Custody.** It is the intent of the Court that the child(ren) have frequent and substantial time with both parties, unless extraordinary circumstances warrant otherwise. Additionally, it is the Court's intent that the child(ren)'s life be disrupted as little as possible during this divorce and that as much stability be maintained for the child(ren) as possible. To that end, if the parties choose to separate during the pendency of this case, the Court strongly encourages the parties to work out an agreement about their respective time with the child(ren) that best serves those ends. In the event the parties are unable to do so, then they are hereby Ordered to obtain a copy of, review and follow the Court's **Parenting**

Plan Guidelines which is available from the Clerk's office or online at <http://13jc.alacourt.gov/clerkDomesticRelations.html>.

18. Contact information. Each party will keep the other apprised of the address and phone number where the children will spend the night for all custodial periods.
19. Helping Children Cope with Divorce. Each party **shall** successfully complete the education seminar known as Helping Children Cope with Divorce. This four-hour seminar educates the parents about the needs of children during and after divorce of their parents. It is not a counseling session. Personal problems will not be discussed. It is to educate parents on how they can best help their children navigate this transitional period.

Registration and fees are the responsibility of each party through the Family Counseling Center located at 705 Oak Circle Dr., Mobile, AL (251) 602-0909. This seminar must be completed by each party within 60 days of service. Failure for either party to attend may result in sanctions or could delay the entry of a final Judgment of Divorce. Each party shall call the Family Counseling Center to register or may register online at <https://www.lifelinesmobile.org/family-marital-and-divorce-counseling/>.

In the event, either party has previously attended a similar program, then upon proper request being filed with the Court, the Court may enter an order excusing such party from taking the class again.

FAILURE TO ABIDE BY THIS COURT ORDER MAY BE CONSIDERED CONTEMPT OF COURT AND PUNISHED ACCORDINGLY. SUCH PUNISHMENT MAY INCLUDE ALL SANCTIONS AVAILABLE TO THE COURT UNDER LAW, INCLUDING ATTORNEY'S FEES, FINES AND/OR INCARCERATION IN THE COUNTY JAIL. YOU ARE STRONGLY ENCOURAGED TO DISCUSS THE CONTENTS OF THIS ORDER WITH YOUR LEGAL COUNSEL.

DATED: _____

Walter H. Honeycutt
Circuit Judge

Michael D. Sherman
Circuit Judge